

OLYMPIC COAST
NATIONAL
MARINE
SANCTUARY
ADVISORY
COUNCIL



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October 30, 2002

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Quileute Tribe
Quinault Indian Nation
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Washington State:
Dept. of Ecology
Dept. of Fish and Wildlife
Dept. of Natural Resources
Olympic National Park
U.S. Fish and Wildlife Service
U.S. Coast Guard

Artwork:
David
Sones

Ms. Carol Bernthal
Superintendent
NOAA/Olympic Coast National Marine Sanctuary
138 W. First Street
Port Angeles, Washington 98362-2600

Dear Ms. Bernthal:

The Olympic Coast National Marine Sanctuary Advisory Council (OCNMS SAC) is submitting comments on the "Draft Code of Conduct for Responsible Aquaculture in the U.S. Exclusive Economic Zone" and asks that you forward these comments to the appropriate federal agency.

The OCNMS SAC consists of nineteen (19) members from non-governmental interests, governmental organizations and Indian Tribes. The membership on the SAC is as follows: Non-governmental; Citizen-at-Large, Education, Research, Conservation/Environmental, Chamber of Commerce/Tourism/Recreation, Marine Business/Ports/Industry, and Commercial Fishing. The Governmental positions are: U.S. Department of Interior-Olympic National Park, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Washington State Department of Ecology, Washington State Department of Natural Resources, Washington State Department of Fish And Wildlife and Local Government. The Hoh, Makah, and Quileute Tribes and the Quinault Indian Nation are members of the SAC.

Olympic Coast Marine Sanctuary covers 3,310-square miles of marine waters off the rugged Olympic Peninsula coastline. The sanctuary provides habitat for one of the most diverse marine mammal faunas in North America and a critical link in the Pacific flyway. The sanctuary boasts a rich mix of cultures, preserved in

contemporary lives of members of Quinault, Hoh, Quileute, and Makah tribes. In addition to the tribal lands, the Sanctuary is also bounded by the coastal unit of the Olympic National Park, State of Washington public lands, and over eight hundred Maritime Wilderness Islands and rocks administered by the U. S. Fish and Wildlife Service.

Significant natural resources include 29 species of marine mammals, nesting seabirds, including common murre, rhinoceros auklets and tufted puffins, haul-outs for both Steller and California sea lions, a breeding population of over 500 sea otters, nest sites for peregrine falcons and bald eagles.

The OCNMS SAC is committed to active support of the National Marine Sanctuary Program in their mission to preserve and protect the unique resources found within the established national marine sanctuaries. The OCNMS SAC is supportive of education, resource protection and research activities and commercial endeavors that are compatible with the primary objectives as stated above. The SAC also acknowledges that policy actions must consider the impact on and uphold the treaty-protected rights of Indian Tribes. It is with these precepts in mind that the majority of the SAC membership offer the following comments on the Draft Code of Conduct for Responsible Aquaculture Development in the U.S. Exclusive Economic Zone (EEZ):

1. The Draft Code fails to acknowledge or list the authority of the National Marine Sanctuaries to permit or otherwise regulate activities such as the operation of aquaculture projects within the Sanctuary boundaries. Furthermore, activities conducted outside a marine sanctuary that impact sanctuary resources may also be subject to regulation.

In particular, the Olympic Coast National Marine Sanctuary (OCNMS) regulations prohibit activities that result in seabed disturbance or cause discharges into sanctuary waters. Aquaculture operations in the EEZ would likely include anchoring, an activity that disturbs the seabed. In addition, use of food pellets, antibiotics or other medications, and concentration of wastes would constitute potentially harmful discharges to sanctuary waters. Additionally, activities that result in "Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter, except those listed in paragraphs (a)(2)(i)(A) through (E) of this section, that subsequently enters the Sanctuary and injures a Sanctuary resource or quality" are prohibited by Sanctuary regulations. Because of these likely impacts, it would be very difficult to site an EEZ aquaculture project within the boundaries of or adjacent to the OCNMS.

2. Aquaculture operations could impact sanctuary resources by increasing pressure to harvest forage fish and krill for use in producing feed for the cultured species. Marine forage fish and krill are found in abundance within the OCNMS during all times of the year. They are a primary reason that such diverse and abundant sea life resides or frequents the Sanctuary. Increased fishing pressure on these key species to support aquaculture operations could adversely impact the carrying capacity of Sanctuary's marine ecosystem, leading to the decline of many species.

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3. Certain types of EEZ aquaculture operations could adversely impact the communities of commercial and tribal fishers who currently depend upon Sanctuary resources. The SAC is well aware of the negative impact farmed salmon already have had on wild-caught salmon prices in our coastal communities. Expanding aquaculture into the EEZ that produce fish that are in direct competition with local fisheries will economically damage local fishers and their communities.
4. EEZ aquaculture operations have the potential for introducing disease into wild stocks. High concentrations of penned fish are vulnerable to diseases and parasites that can spread to wild native stocks in the vicinity. Several species of rockfish that reside in the Sanctuary and the west coast are currently in decline. The concern for the long-term recovery of these species recently led the Pacific Management Council and the National Marine Fisheries Service to close off large areas of the continental shelf of the west coast to commercial fishing with certain gear types. The precarious ability of the rockfish to recover could be adversely affected by diseases unintentionally introduced from EEZ aquaculture.
5. EEZ aquaculture operations could threaten the native marine species within the Sanctuary when non-native or genetically altered species reproduce, recruit, or escape into Sanctuary waters. Given the extreme weather conditions and large wave heights that are common in the Sanctuary during much of year, damage to aquaculture operations resulting in escape events is very likely. Should such species spread within Sanctuary habitats, they could locally extirpate native species already occupying specific ecological niches. Non-native invasive species are the second leading cause of biodiversity loss worldwide and aquaculture provides a significant pathway for introduction of non-natives. For example, Canadian scientists have recently documented Atlantic salmon in streams in British Columbia. It is thought that these fish escaped from fish farms in British Columbia's sheltered waters. Other aquaculture species (e.g., the Pacific oyster, *Crassostrea gigas*) have strongly modified shallow marine habitats into which they have escaped.

The Draft Code addresses the issue of escapes in paragraph 6.6.3 by asserting "Escape prevention, combined with remedial action to address significant escape events, should be the key strategy for reducing potential risk to other species". The SAC is extremely doubtful that in an open ocean setting, remedial actions would be effective once a significant escape event has occurred. Therefore, we believe that preventing escape from aquaculture is the only meaningful means of preventing invasion.

6. The list of entities in Appendix II who have jurisdiction should be expanded to include Indian tribes, the National Marine Sanctuary Program, and the individual National Marine Sanctuaries. Within Washington State, many tribes have

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guaranteed rights and resource management responsibilities under treaties signed at the time of statehood or later. Specifically, five tribes have usual and accustomed harvest areas throughout the OCNMS. At a minimum, these tribes should be consulted before proceeding with any action to establish an aquaculture operation that would impact their traditional harvesting areas.

Under Appendix II, the National Marine Sanctuary Program, along with the National Marine Sanctuaries Act (NMSA) should be listed with an explanation of the regulatory elements. It should further state that each Sanctuary in the system has its own enforceable regulations and permitting authority that would directly bear upon the siting of an aquaculture operation within Sanctuary waters.

Finally, the National Wildlife Refuge System Act and the Migratory Bird Treaty Act need to be included in Appendix II, section (vi) as part of the list of controlling authorities. U.S. Fish and Wildlife administers three National Wildlife Refuges within the boundaries of the OCNMS, encompassing over 800 islands and rocks. These rocks and islands provide critical habitat for marine mammals and seabirds. Impacts to seabird populations fall under the authority of the Migratory Bird Treaty Act.

7. The SAC requests that all marine sanctuaries established under the NMSA should automatically be excluded from any consideration for inclusion in any future aquaculture zones as outlined in Section 6.3.4 and elsewhere. The primary purpose of a national marine sanctuary is to protect the marine resources and encourage compatible uses. Only under the narrowest of conditions can an activity inconsistent with this goal be permitted. Specifically, the language of the regulations of the OCNMS reads:

“The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by paragraphs (a) (2) through (7) of § 922.152, if the Director finds that the activity will not substantially injure Sanctuary resources and qualities and will: further research related to Sanctuary resources and qualities; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of Washington; or promote the welfare of any Indian tribe adjacent to the Sanctuary”

Given the difficulty of permitting an aquaculture proposal within a sanctuary in general and the OCNMS in particular, it would make no sense to even consider them for inclusion in any proposed aquaculture zone.

In conclusion, Sanctuary Advisory Council believes that in developing a Code of Conduct for EEZ aquaculture development, the Code must acknowledge the role and responsibilities of the Sanctuaries under the NMSA. Recognizing that the purpose of

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Sanctuaries is first and foremost to protect the habitats within a sanctuary, we can only envision a very narrow set of circumstances in which we would encourage aquaculture in EEZ waters within the Sanctuary.

Thank you for the opportunity to comment on this issue and we respectfully request that you formally respond to our comments.

Sincerely,

A handwritten signature in cursive script that reads "Alan B. Brooks".

Al Brooks
Chair, Olympic Coast National Marine Sanctuary Advisory Council